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In addition, copies of the amendment are available for inspection and copying during regular business hours at the following locations:

Office of Surface Mining, Morgantown Area Office, Post Office Box 888, Morgantown, West Virginia 26505, Telephone: (304) 291-4004

Office of Surface Mining, Beckley Area Office, 119 Appalachian Drive, Beckley, West Virginia 25801, Telephone: (304) 255-5265

On February 16, 1983, the State of West Virginia submitted to OSM an amendment to its conditionally approved permanent regulatory program. The West Virginia program was conditionally approved by the Secretary of the Interior on January 21, 1981 (46 FR 5915-5956). The proposed program amendment consists of proposed regulations to revise and replace those approved and currently in force as emergency regulations. In addition, West Virginia indicated that the proposed regulations do not incorporate the provisions of the Technical Handbook of Standards and Specifications for Mining Operations as regulation as done in the State's conditionally approved program. Instead, design criteria have been incorporated into the proposed regulations and, where necessary, appropriate references made to the Technical Handbook. The Technical Handbook now serves as a technical guideline, rather than regulation. Therefore, this amendment deletes the Technical Handbook from regulation and incorporates it as a program element.

In accordance with the provisions of 30 CFR 732.17, OSM is seeking comments from the public on the adequacy of the proposed program amendment. Upon the close of the public comment period, the Director of the Charleston Field Office will forward transcripts, public comments and a recommendation to the Director of OSM.

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an

Exemption from Sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule does not impose any new requirements; rather, it ensures that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. *Paperwork Reduction Act:* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 948

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: March 1, 1983.

James R. Harris,

Director, Office of Surface Mining.

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VETERANS ADMINISTRATION

DEPARTMENT OF DEFENSE

38 CFR Part 21

Post-Vietnam Era Veterans Educational Assistance Program Basic Eligibility Criteria; Refund of Participant's Contributions

AGENCY: Veterans Administration and Department of Defense.

ACTION: Proposed regulations.

SUMMARY: These proposed regulations, issued jointly by the VA (Veterans Administration) and Department of Defense, are designed to implement those provisions of the Veterans' Disability Compensation, Housing, and Memorial Benefits Amendments of 1981 which affect the Post-Vietnam Era Veterans' Educational Assistance Program (VEAP). They make the eligibility criteria for this program more restrictive. These regulations will implement the applicable provisions of this law.

DATES: Comments must be received on or before April 4, 1983. In keeping with Pub. L. 97-66, the VA and Department of Defense propose that these regulations be made effective October 17, 1981.

ADDRESSES: Send written comments to: Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420.

All written comments received will be available for public inspection at this address only between the hours of 8 a.m. and 4:30 p.m. Monday through Friday (except holidays) until April 13, 1983. Anyone visiting Veterans Administration Central Office in Washington, D.C. for the purpose of inspecting any of these comments will be received in the Central Office Veterans Services Unit in room 132. Visitors to VA field stations will be informed that the records are available for inspection only in Central Office and will be furnished the address and room number.

FOR FURTHER INFORMATION CONTACT:

June C. Schaeffer (225), Assistant Director for Policy and Program Administration, Education Service, Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420 (202-389-2092).

SUPPLEMENTARY INFORMATION: The proposed regulations provide additional criteria which individuals must meet before they can establish basic eligibility to educational benefits under chapter 32, Title 38, United States Code. They also expand the circumstances under which a participant in the Post-Vietnam Era Veteran's Educational Assistance Program may receive a partial refund of his or her contributions. These policy changes are required by law.

The agencies have determined that these proposed regulations contain no major rules as that term is defined by Executive Order 12291, Federal Regulation. The annual effect on the economy will be less than \$100 million. They will not result in any major increases in costs or prices for anyone. They will have no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Administrator of Veterans Affairs and the Secretary of Defense hereby certify that these proposed regulations, if promulgated, will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612. Pursuant to 5 U.S.C. 605(b), these proposed regulations therefore are

exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

These regulations will affect only individual VA benefit recipients. They will have no significant impact on small entities (i.e. small businesses, small private and nonprofit organizations, and small governmental jurisdictions).

The Catalog of Federal Domestic Assistance number for the program affected by these proposed regulations is 64.120.

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs—Education, Loan programs—Education, Reporting requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

Approved: January 11, 1983.

Approved: February 7, 1983.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

R. Dean Tice,

Deputy Assistant Secretary of Defense.

PART 21—[AMENDED]

1. Section 21.5040 is revised as follows:

§ 21.5040 Basic eligibility.

(a) *Individuals not on active duty.* Whether an individual has basic eligibility under 38 U.S.C. ch. 32 for educational assistance depends upon when he or she entered the military service, the length of that service, and the character of that service (38 U.S.C. 1602; Pub. L. 97-66, 95 Stat. 1026).

(b) *Service requirements for all individuals not on active duty.* (1) An individual not on active duty—

(i) Must have entered the military service after December 31, 1976;

(ii) Must not have and must not have had basic eligibility under 38 U.S.C. ch. 34;

(iii) Must have received an unconditional discharge or release under conditions other than dishonorable from any period of service upon which eligibility is based;

(iv) Must either have—

(A) Served on active duty for at least 181 continuous days, or

(B) Been discharged or released from active duty for a service-connected disability.

(2) The Veterans Administration will consider that the veteran has an unconditional discharge or release if—

(i) The individual was eligible for complete separation from active duty on the date a discharge or release was issued to him or her, or

(ii) The provisions of § 3.13(c) of this chapter are met.

(3) The provisions of § 3.12 of this chapter as to character of discharge and § 3.13 of this chapter as to conditional discharges are applicable (38 U.S.C. 1602).

(c) *Additional active duty service requirements for some individuals not on active duty—Chapter 32.* (1) Unless exempted by paragraph (d) of this section, persons who originally enlist in a regular component of the Armed Forces after September 7, 1980, or who enter on active duty after October 16, 1981 (either as an enlisted member or an officer) to be eligible under 38 U.S.C. ch. 32, must first complete the shorter of—

(i) 24 continuous months of active duty, or

(ii) The full period for which the individual was called or ordered to active duty.

(2) For the purpose of paragraph (c)(1) of this section the Veterans Administration considers that an enlisted person originally enlisted in a regular component of the Armed Forces on the date he or she entered on active duty even though he or she may have signed a delayed-entry contract on an earlier date.

(3) In computing time served for the purpose of this paragraph, the Veterans Administration will exclude any period during which the individual is not entitled to credit as specified in § 3.15 of this chapter. However, those periods will be included in determining if the service was continuous (38 U.S.C. 1602, 3103A; Pub. L. 97-66, 95 Stat. 1026).

(d) *Individuals exempt from additional active duty requirements.* (1) An individual who originally enlists in a regular component of the Armed Forces after September 7, 1980, or who enters on active duty after October 16, 1981 (either as an enlisted member or officer), will be eligible to receive benefits under 38 U.S.C. ch. 32 based upon the ensuing period of active duty, and is exempt from the provisions of paragraph (c) of this section if he or she subsequently—

(i) Is discharged or released from active duty—

(A) Under 10 U.S.C. 1173 (hardship discharge), or

(B) Under 10 U.S.C. 1171 (early-out discharge), or

(C) For a disability incurred in or aggravated in line of duty; or

(ii) Is found by the Veterans Administration to have a service-connected disability which gives the individual basic entitlement to disability compensation as described in § 3.4(b) of this chapter. Once the Veterans Administration makes this finding, the exemption will continue to apply even if

the disability subsequently improves and becomes noncompensable.

(2) An individual who enters on a period of active duty after October 16, 1981 is also exempt from the provisions of paragraph (c) of this section if he or she—

(i) Previously completed a continuous period of active duty of at least 24 months, or

(ii) Was discharged or released from a previous period of active duty under 10 U.S.C. 1171 (early-out discharge).

(3) In computing time served for the purpose of this paragraph, the Veterans Administration will exclude any period during which the individual is not entitled to credit for service as specified in § 3.15 of this chapter. However, those periods will be included in determining if the service was continuous (38 U.S.C. 1602, 3103A; Pub. L. 97-66, 95 Stat. 1026).

(e) *Savings provision.* An individual may become a participant and establish basic eligibility under the provisions of this section based upon a period of active duty service which began October 16, 1981. He or she would not lose the basic eligibility based upon that period of service if, following a release from active duty, the individual reenters on active duty after October 16, 1981 and fails to meet the requirements of paragraph (c) of this section or qualify for an exemption under paragraph (d) of this section. He or she will receive a refund of any contributions he or she may make to the fund during the second period of active duty. See § 21.5065 (38 U.S.C. 1602, 3103A; Pub. L. 97-66, 95 Stat. 1026).

(f) *Individuals on active duty.* To establish basic eligibility under 38 U.S.C. ch. 32 for educational assistance an individual on active duty—

(1) Must have entered into military service after December 31, 1976 (38 U.S.C. 1602),

(2) Must have served on active duty for a period of 181 or more continuous days after December 31, 1976, and

(3) If not enrolled in a course, courses or a program of education leading to a secondary school diploma or equivalency certificate, must have completed the lesser of the following two periods of active duty: (38 U.S.C. 1631(b))

(i) The individual's first obligated period of active duty which began after December 31, 1976, or

(ii) The individual's period of active duty which began after December 31, 1976, and which is 6 years in length,

(4) If enrolled in a course, courses or a program of education leading to a secondary school diploma or equivalency certificate, the individual—

(i) Must be an enlisted member of the Armed Forces.

(ii) Must be a participant

(iii) Must be training during the last 6 months of his or her first period of active duty, or any time thereafter, and

(5) If he or she originally enlisted after September 7, 1980, must have completed at least 24 months of his or her original enlistment (38 U.S.C. 1631(b), 10 U.S.C. 977).

2. Section 21.5065 is revised as follows:

§ 21.5065 Refunds without disenrollment.

(a) *Refunds made without disenrollment following a discharge or release under dishonorable conditions—*

(1) *A discharge or release under dishonorable conditions may result in a partial refund of contributions.* If an individual who would have been eligible, but for the fact of his or her re-enlistment, for the award of a discharge or release under conditions other than dishonorable at the time he or she completed an obligated period of service, later receives a discharge or release under dishonorable conditions, the Veterans Administration may refund a portion of his or her contribution (38 U.S.C. 101, 1623).

(2) *Amount of refund.* The Veterans Administration shall refund to the individual all of his or her remaining contributions made to the fund after the individual completed the obligated period of service (38 U.S.C. 101, 1623).

(3) *Date of refund.* The Veterans Administration shall refund all monies due the individual—

(i) On the date of the individual's discharge or release from active duty; or

(ii) Within 60 days of receipt by the Veterans Administration of notice of the individual's discharge or release, whichever is later (38 U.S.C. 101, 1623, 1632).

(b) *Refunds made without disenrollment following a short period of active duty.* (1) An individual who has contributed to the fund during more than one period of active duty may be required to receive a refund of those contributions made during the most recent period of active duty. When an individual who meets all the criteria in paragraph (b)(2) of this section is discharged, the Veterans Administration will refund all contributions he or she made during the most recent period of active duty unless the individual meets one or more of the criteria stated in either paragraph (b) (4) or (5) of this section. If he or she meets one of those criteria, the contributions will not be refunded unless the individual voluntarily disenrolls.

(2) Unless a compulsory refund is prohibited by paragraph (b) (4) or (5) of this section, the Veterans Administration will refund all contributions made by an individual during the most recent period of active duty when the individual—

(i) Completed at least one period of active duty before the most recent one during which he or she established entitlement to Post-Vietnam Era Veterans' Educational Assistance;

(ii) Reentered on his or her most recent period of active duty after October 16, 1981;

(iii) Contributed to the fund during his or her most recent period of active duty; and

(iv) Is discharged.

(3) The circumstances which prohibit an automatic refund of monies contributed during the individual's most recent period of active duty do not relate only to the most recent period of active duty which began after October 16, 1981, but also to the individual's prior periods of active duty regardless of whether they began before, after or on October 16, 1981.

(4) Meeting one or more of the following criteria concerning periods of active duty before the most recent one will be sufficient to prohibit a compulsory refund of contributions made during the most recent period of active duty. The individual—

(i) Before the most recent period of active duty began, completed at least one continuous period of active duty of at least 24 months, or

(ii) Was discharged or released under 10 U.S.C. 1171 (early-out discharge) from any period of active duty before the most recent one.

(5) Meeting one or more of the following criteria concerning the most recent period of active duty will be sufficient to prohibit a compulsory refund of contributions made during the most recent period of active duty. The individual—

(i) For the most recent period of active duty completes 24 months of continuous active duty, or the full period for which the individual was called or ordered to active duty, whichever is shorter; or

(ii) Is discharged or released from the most recent period of active duty under 10 U.S.C. 1171 (early-out discharge) or 11173 (hardship discharge); or

(iii) Is discharged or released from the most recent period of active duty for a disability incurred or aggravated in line of duty; or

(iv) Has a service-connected disability which give him or her basic entitlement to disability compensation as described in § 3.4(b) of this chapter.

(6) In computing time served for the purpose of this paragraph, the individual is not entitled for credit for service as specified in § 3.15 of this chapter. However, those periods will be included in determining if the service was continuous.

(7) The Veterans Administration shall refund all monies due the individual—

(i) On the date of the individual's discharge or release from active duty; or

(ii) Within 60 days of receipt of notice by the Veterans Administration of the individual's discharge or release, whichever is later.

(38 U.S.C. 1602, 1623, 1632, 3103A; Pub. L. 97-66, 95 Stat. 1026).

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[SWH-FRL-2314-6]

Proposed National Priorities List, Appendix B of the National Oil and Hazardous Substances Contingency Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency ("EPA") proposes to add to the proposed National Priorities List (47 FR 58476) one additional site, Times Beach, Missouri. The National Priorities List ("NPL") was proposed on December 30, 1982, as an amendment to the National Oil and Hazardous Substances Contingency Plan ("NCP") (47 FR 31180). The NCP was promulgated as required by Section 105 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA") which also required that the NCP include a list of national priorities among the known or threatened releases of hazardous substances, pollutants or contaminants in the United States, and that the list be revised at least annually. The NPL identifies priority releases for Fund-financed remedial action and enforcement under CERCLA. EPA is taking this step pursuant to the requirement of CERCLA. Placement of Times Beach on the NPL at this time allows the Agency an opportunity to evaluate the widest range of long and short term responses to the release, taking into account the threat to public health and current dislocation of most residents and businesses.

DATE: Comments must be submitted on or before April 4, 1983.

ADDRESSES: Comments on this action may be mailed to Russell H. Wyer, Director, Hazardous Site Control Division, Office of Emergency and Remedial Response (WH-548-E), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. The public docket for the NPL will contain the applicable Hazard Ranking System score sheets for the Times Beach site as well as a Documentation Record.

FOR FURTHER INFORMATION CONTACT: Sylvia Lowrance 382-2203.

SUPPLEMENTARY INFORMATION: The NPL was proposed on December 30, 1982. Subsequent to its proposal, the Times Beach site came to the Agency's attention as a serious candidate for inclusion on the NPL.

The Times Beach, Missouri, site was one of over 100 sites in the State of Missouri at which dioxin contamination was suspected in November 1982. Extensive sampling by EPA in Times Beach in late November-early December 1982 confirmed the presence of dioxin along roadway areas. After the area was flooded in December, EPA returned to re-sample the area and again confirmed the presence of dioxin in

residences and yards as well as the roadway areas.

The second round of sampling provided adequate data to assess the nature and extent of the release and to assist in determining its priority for Fund-financed response as required by § 300.66(b) of the National Contingency Plan. The results of the scoring indicated Times Beach should be placed on the NPL.

The decision to add Times Beach to the NPL immediately rather than waiting for the first update stems from the serious nature of the problem. Dioxin is one of the most toxic substances known to man; it is carcinogenic and suspected to have effects on reproductive systems. The area where the dioxin is located was completely flooded and most of the residents are in temporary housing awaiting a determination of the appropriate action necessary to deal with the release. Placement of Times Beach on the NPL at this time allows the Agency an opportunity to evaluate the widest range of long and short term responses to the release, taking into account the threat to public health and current dislocation of most residents and businesses.

List of Subjects in 40 CFR Part 300

Air pollution control, Chemicals, Hazardous material, Intergovernmental relations, Natural resources, Oil pollution, Reporting and recordkeeping requirements, Superfund, Waste treatment and disposal, Water pollution control, Water supply.

Dated: February 22, 1983.

Anne M. Burford,
Administrator.

PART 300—[AMENDED]

It is proposed to add an additional site on the National Priorities List which is Appendix B, a proposed amendment to 40 CFR Part 300. The site would appear as the next to last site in Group 5, as follows:

GROUP 5

EPA region	State	City/county	Site name	Response status*
07	MO.	Times Beach.	Times Beach.	D.

* V=Voluntary or Negotiated Response, R=Federal and State Responses, E=Federal and State Enforcement, D=Actions to be Determined.

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